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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,158	08/28/2003	Frank O. McDougle	MCD685-00/02607A	7049
24118	7590	03/31/2004	EXAMINER	
HEAD, JOHNSON & KACHIGIAN 228 W 17TH PLACE TULSA, OK 74119			GRILES, BETHANY L	
			ART UNIT	PAPER NUMBER

3643

DATE MAILED: 03/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/650,158	Applicant(s) MCDUGLE, FRANK O.	
	Examiner Bethany L. Griles	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-10 is/are allowed.
- 6) ☒ Claim(s) 1-3, 6 is/are rejected.
- 7) ☒ Claim(s) 4 and 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bresolin (US5518611) in view of Rauglas (US2866294).
3. Regarding claim 1, Bresolin discloses a bait tank (col 1, line 59), and first and second interior wall compartments 2, 6 separated from one another and the wall, and a dual compartment filtration unit 1 removably accommodated within the interior portion of the second compartment 16, filtration unit inflow and outflow water conduits 7, 8; each of said conduits 7, 8 communicably attaching the filtration unit 1 to the first and second interior compartments; and pump means 12 for circulating water through the first and second compartments.
4. Bresolin does not disclose that the tank is oval shaped.
5. Rauglas discloses an oval shaped tank 10, 11.
6. It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Rauglas to the invention of Bresolin in order to make the bait tank easier to clean.
7. Regarding claim 2, Bresolin discloses a water conditioning unit 9 attached to the bait tank via input and output water conditioning conduits 7, 8.

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8. Regarding claim 3, Bresolin discloses one or more tubular rod holders 21, 22 affixed to the tank's exterior wall.

9. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bresolin in view of Rauglas as applied to claim 1- above, and further in view of Lovitz (US 3635344).

10. Regarding claim 6, Bresolin as modified by Rauglas does not disclose a control means for setting upper and lower reference temperatures.

11. Lovitz discloses a control means for temperature 23.

12. It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Lovitz to the invention of Bresolin as modified by Rauglas in order to keep the bait within tolerable living temperatures within the environment of the bait tank. It would have further been obvious to one of ordinary skill in the art at the time the invention was made to include a control means for temperature in order to keep the bait alive. It is notoriously old and well known in the art to control the temperature range of bait being held in a bait tank, even if only by placing a container in the shade on a hot day.

Allowable Subject Matter

13. Claims 7-10 are allowed.

14. Claims 4 and 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Haldeman US2137397; Huska US6659043; Gunther US546883; Korez US5171438; Hsu et al. US5172650; Weinstein US5306421; Bennett US5861093; Gray USD449368; Radmanovich US5231789; Dor US6234113; Lin et al. US6499431; Terato US6533928; Mugridge US3279430; Andrews US5088229; Patterson US4162681; Bresolin US6106709; Testa, Jr. US5305544; Idbeis US5732657; Hyde et al. US5866018; Fitzgerald US3890486; Friedman US4975562; Sy US5054424; Vogelpohl USD347584; Chestnut US5444227; Huang et al. US6564010; Sam GB2198051A.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bethany L. Griles whose telephone number is 703.305.1839. The examiner can normally be reached on Monday through Friday 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703.308.2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



blg

Bethany L. Griles
Examiner
Art Unit 3643



Peter M. Poon
Supervisory Patent Examiner
Technology Center 3600